

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In Re:

JOEL J. PEDERSEN AKA JOEL JON
PEDERSEN,

Debtor.

**MOTION FOR RELIEF
FROM AUTOMATIC STAY**

Case No. 20-10241-CLB
Chapter 13

HON. CARL L. BUCKI

Credit Acceptance Corp. (hereinafter “CAC”), a secured creditor of the above-named Debtor, moves the above-captioned Court for an order modifying the automatic stay pursuant to 11 U.S.C. §362 (d)(1) to permit it to recover and sell one (1) 2008 Chevrolet Silverado 1500, more particularly described in the evidence of the recorded lien, which is annexed hereto and made a part hereof as Exhibit “B”:

1. The Court has jurisdiction to hear this motion under 28 U.S.C. §157.
2. CAC is a secured creditor herein and holds a duly perfected purchase money security interest in one (1) 2008 Chevrolet Silverado 1500.
3. On November 27, 2019, Debtor, Joel J. Pedersen, entered into a retail installment contract with Pine Grove Auto Sales LLC to purchase one (1) 2008 Chevrolet Silverado 1500 (hereinafter “collateral”). Pursuant to the terms of the retail installment contract, the Debtor promised to pay the total sales price plus 21.00% interest. The retail installment contract was assigned to CAC. A copy of the contract is annexed hereto and made a part hereof as Exhibit “A”.
4. Pursuant to the terms of the retail installment contract, the Debtor gave a security interest in the collateral to CAC. The security interest was perfected by the filing a Notice of

Lien with the New York State Department of Motor Vehicles. Evidence of the recorded lien is annexed hereto and made a part hereof as Exhibit “B”.

5. Debtor filed a petition for relief under Chapter 13 of the United States Code in this Court on February 12, 2020. Pursuant to 11 U.S.C. §362(a)(1) CAC is stayed from proceeding with any action to recover and sell the collateral.

6. Debtor’s confirmed plan provides for payment of the secured claim of CAC through the plan. According to the records maintained by CAC, as of June 16, 2021, the Debtor was in default of weekly payments to the Chapter 13 Trustee in in the amount of \$168.00 each for the months of March, 2021 through May, 20201, and three weeks of June, 2021, totaling approximately \$2,520.00.

7. The payoff amount was \$11,134.14 as of June 16, 2021. According to the NADA Guide, the collateral has a wholesale value of \$6,050.00. The relevant NADA Guide page for the month of June, 2021 is annexed hereto and made a part hereof as Exhibit “C”.

8. Pursuant to the terms of the retail installment contract, CAC requests an award of reasonable costs and attorney’s fees in the amount of \$538.00.

9. Pursuant to 11 U.S.C. 362(d) a Court may terminate, amend, modify the automatic stay for cause including the lack of adequate protection of an interest in property of the Debtor.

10. The Debtor has failed to make payments as required by the confirmed plan, which constitutes a default under the plan terms.

11. CAC’s interest is not adequately protected as a result of the Debtor’s failure to make the necessary payments to the Chapter 13 Trustee.

12. Therefore, sufficient cause exists to grant CAC relief from the automatic stay.

13. By reason of the foregoing, CAC or its assigns should be permitted to recover and sell the aforesaid collateral.

14. It is requested that in the event that an Order Granting Relief from the Automatic Stay is granted, that such Order survive any conversion.

15. It is requested that the provisions of F.R.B.P. Rule 4001(a)(3) be waived.

16. In the event the collateral is sold at auction, the Chapter 13 Trustee will receive notice of any surplus monies.

17. No previous application has been made for the relief requested herein.

WHEREFORE, Credit Acceptance Corp. requests that this Court enter an order modifying the automatic stay herein, and awarding CAC's attorneys' fees and costs in the amount \$538.00, together with such other and further relief as to the Court may seem just and proper.

Dated: June 24, 2021

**SCHILLER, KNAPP,
LEFKOWITZ & HERTZEL, LLP**

By:
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